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Nevada Bar No. 5880

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Nevada Bar No. 10761

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7 *Attorneys for Defendant,*

*THE VONS COMPANIES, INC.*

8 **UNITED STATES DISTRICT COURT**  
9 **DISTRICT OF NEVADA**

10 SAMMANTHA NIEMEIER as Special  
11 Administrator of the Estate of JEFFREY  
12 CARTER,

13 Plaintiff,

14 vs.

15 THE VONS COMPANIES, INC., a  
16 corporation; and DOES and DOE  
17 EMPLOYEES I through X, inclusive; and  
18 ROE ENTITIES I through X, inclusive,

Defendants.

CASE NO.:

**DEFENDANT THE VONS COMPANIES,**  
**INC.'S NOTICE OF REMOVAL OF**  
**ACTION TO UNITED STATES DISTRICT**  
**COURT UNDER 28 USC §1441(a)**

19 Defendant THE VONS COMPANIES, INC., by its undersigned attorneys LEW BRANDON,  
20 JR., ESQ., and JUSTIN SMERBER, ESQ., of BRANDON | SMERBER LAW FIRM, hereby  
21 removes the above-captioned case to the United States District Court, Clark County, Nevada,  
22 where the action is now pending, pursuant to 28 USC § 1441(a) and states as follows:  
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1. The above-entitled action was commenced in the Eighth Judicial District Court, Clark County, State of Nevada on February 11, 2022, bearing Case No. A-22-848220-C. The action is now pending in the Eighth Judicial District Court, Clark County, State of Nevada.

2. Plaintiff SAMMANATHA NIEMEIER as Special Administrator of the Estate of JEFFREY CARTER (“Plaintiff”) filed the initial complaint on or about February 11, 2022, claiming damages in excess of fifteen thousand dollars (\$15,000.00). Plaintiff’s Complaint fails to state that this case is one which is or has become removable. *See Harris v. Bankers Life & Cas. Co.*, 425 F.3d 689 (9th Cir. 2005).

3. Plaintiff served the Complaint upon Defendant THE VONS COMPANIES, INC. on March 2, 2022.

4. Defendant filed its Answer to the Complaint on March 21, 2022.

5. On April 6, 2022, Plaintiff served the Petition for Exemption from Arbitration upon Defendant, wherein Plaintiff alleges that Defendant’s negligence caused (a) twenty-one thousand three hundred and fifty-eight dollars and sixty-three cents (\$21,358.63) in economic damages; (b) Plaintiff Jeffrey Carter’s death; and (c) “combined economic and noneconomic damages [n excess of] \$50,000.”

6. Pursuant to Fed. R. Civ. P. 6(a), the last day of the thirty (30) day period under 28 USC §1446(b) is May 6, 2022. 28 USC §1446(b); *Harris*, 425 F.3d.

7. This Notice of Removal was filed timely as it was filed within thirty (30) days of service of the Petition for Exemption from Arbitration upon Defendant on April 6, 2022, which was the first motion, order, or other paper from which it could first be ascertained that this case is one which is or has become removable. *Id.*

8. This action concerns an allegation that the Defendant negligently maintained the premises and that Defendant “failed to properly ensure the safe movement of carts and trolleys,” and/or negligently hired, trained, supervised, and retained individuals responsible for the maintenance of the premises, thereby causing Plaintiff injury.

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9. In the Complaint, Plaintiff Jeffrey Carter, now deceased, “was a resident of Clark County, Nevada.” Based upon Plaintiff’s allegations, Defendant is informed and believes that Plaintiff was at all times relevant a citizen of the State of Nevada.

10. At the commencement of this action and at all times herein, Defendant was, and now is, a corporation duly organized and existing under the laws of the State of Michigan, with its principal place of business is located in the State of Idaho. *See Exhibit 1.*

11. Corporations are citizens of any state in which they are incorporated or have their principal place of business. *Id.*; 28 USC §1332(c)(1).

12. Since Defendant is incorporated State of Michigan and maintains its principal place of business in Idaho, for diversity purposes, it is a citizen of Michigan and Idaho.

13. At the time of commencement of this action Defendant was a citizen of Michigan and Idaho, and Plaintiff was a resident of Nevada, such that complete diversity of citizenship exists between Plaintiff and Defendant. *See* 28 USC §1332.

14. Upon information and belief, Plaintiff’s damages amount to twenty-one thousand three hundred and fifty-eight dollars and sixty-three cents (\$21,358.63) in economic damages, plus damages that are allegedly related to Plaintiff Jeffrey Carter’s death, and any additional economic, noneconomic, and punitive damages. As a result, the amount in controversy exceeds seventy-five thousand dollars (\$75,000.00).

15. The United States District Court for the District of Nevada has original jurisdiction pursuant to 28 USC §1332 in that the parties are citizens of different states and the amount in controversy exceeds the sum or value of seventy-five thousand dollars (\$75,000.00), exclusive of interests and costs.

16. Accordingly, Plaintiff’s Complaint is removable pursuant to 28 USC §1441, which provides that a defendant may remove a case over which the federal court has original jurisdiction.

17. A complete copy of all process and pleadings served upon Defendant is attached hereto as **Exhibit 2.**

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1 Defendant THE VONS COMPANIES, INC, therefore, respectfully requests that this action  
2 proceed in this Court as an action properly removed to it.

3 DATED this 21<sup>st</sup> day of April 2022.

4 **BRANDON | SMERBER LAW FIRM**

5 /s/ Justin W. Smerber, Esq.

6 **LEW BRANDON, JR., ESQ.**

7 Nevada Bar No. 5880

8 **JUSTIN SMERBER, ESQ.**

9 Nevada Bar No. 10761

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12 *Attorneys for Defendant,*

13 *THE VONS COMPANIES, INC.*

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**BRANDON | SMERBER**  
**LAW FIRM**

**CERTIFICATE OF SERVICE**

Pursuant to FRCP 5(b), I hereby certify that on April 21<sup>st</sup>, 2022, I served a true and correct copy of the foregoing **DEFENDANT THE VONS COMPANIES, INC.'S NOTICE OF REMOVAL OF ACTION TO UNITED STATES DISTRICT COURT UNDER 28 USC §1441(a)** through the Court's electronic filing and service systems to all parties on the current service list.

**STEVEN K. PARKE, ESQ.**  
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*Attorneys for Plaintiff*

/s/ Angelina M. Martinez  
An Employee of BRANDON | SMERBER LAW FIRM